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FISCAL IMPACT STATEMENT

LS 6131

BILL NUMBER: SB 143

NOTE PREPARED: Feb 26, 2008

BILL AMENDED: Feb 26, 2008

SUBJECT: Childhood Lead Poisoning Prevention.

FIRST AUTHOR: Sen. Gard

FIRST SPONSOR: Rep. C. Brown

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill specifies certain requirements for, the State Department of Health (ISDH), local health departments, residential rental property owners, and retail establishments related to childhood lead poisoning prevention.

State Department of Health Requirements: The bill requires the ISDH to adopt rules: (1) to establish a lead-safe work practices training program for contractors, renovators, and remodelers; and (2) regarding the sale or distribution of products that contain or may contain lead.

Laboratory Requirements: This bill specifies the complete information that laboratories that examine blood for the presence of lead must report to the Indiana State Department of Health. It further provides that if a laboratory fails to provide the complete information after notification, the ISDH may assess a civil penalty against the laboratory in the amount of \$2,500 for each incomplete report submitted after the notification. The bill provides for certain exceptions.

The bill establishes the nonreverting Childhood Lead Poisoning Prevention Fund for outreach and prevention activities. The Fund consists of civil penalties assessed against laboratories, gifts, and appropriations.

Abortion Clinic Requirements: The bill requires that licensed abortion clinics that are located in a building built before 1978, must have an initial licensed assessment for lead hazards by December 31, 2011. After December 2011, a clearance exam is required at least every three years unless abatement has occurred. If a lead hazard is found, children must be kept out of the lead hazard area until remediation is completed and the area is determined to be hazard-free.

Lead-Safe Housing Advisory Council: The bill establishes the 21-member Lead-Safe Housing Advisory Council to advise the ISDH with regard to housing-related lead poisoning prevention activities. The Council is required to meet quarterly and is to submit no later than April 1, 2009, specified recommendations to the Governor and the Legislative Council. The Lead-Safe Housing Advisory Council is to be staffed by the ISDH.

Residential Rental Property Owner Requirements: The bill requires the owner of a housing unit determined to be the cause of elevated blood lead levels in an individual to submit a remediation plan to the state or local health department for approval. The bill specifies that the remediation plans must: (1) provide for the remediation of the lead hazard; (2) include a clearance examination after remediation is completed; and (3) provide for subsequent annual clearance examinations. The bill provides that the owner must complete the remediation within 90 days of the plan approval with certain exceptions. The bill provides that the owner is responsible for making certain housing provisions for tenants during the remediation. It further specifies that tenants continue to be responsible for rental payments if they are relocated during the remediation. It prohibits an owner from taking certain retaliatory actions against a tenant for reporting the presence of lead hazards. The bill specifies that the housing provisions do not apply to housing owned by state educational institutions.

Retail Establishment Requirements: The bill specifies certain requirements for retail establishments that sell paint or painting products or certain consumer products.

Tort Provisions: The bill allows a consumer or user who is injured by certain hazardous substances to bring an action in tort against the manufacturer, importer, or wholesaler of the hazardous substance. It provides for joint and several liability for injuries sustained by the consumer or user due to hazardous substances.

Study Issues for 2008 Interim: The bill requires an interim study committee to study issues related to childhood lead poisoning prevention.

The bill also makes conforming and technical amendments.

(The introduced version of this bill was prepared by the Health Finance Commission.)

Effective Date: Upon passage; July 1, 2008.

Explanation of State Expenditures: (Revised) *Summary:* The State Department of Health has estimated that one full-time equivalent (FTE) would be necessary to implement the provisions of the bill applicable to ISDH. The total ISDH costs associated with the Lead-Safe Housing Advisory Council, and the approval of remediation plans are estimated to be \$75,000.

Background and Additional Details:

ISDH Training Program for Contractors, Renovators, and Remodelers: The Department of Environmental Management currently requires training for licensure requirements under its Lead-based Paint Activities Program. IDEM does not conduct lead-safe work practices training; it has established by rule the requirements for training that is conducted by outside parties. Under a memorandum of understanding (MOU) with IDEM effective October 1, 2007, ISDH has taken the responsibility to implement and enforce state and federal regulations concerning lead-based paint. The cost of this provision will depend on the extent

to which the ISDH adopts the training requirements currently in place in the IDEM rules. IDEM reports current licenses for 12 contractors, 146 inspectors, 217 licensed risk assessors, 36 workers, 67 supervisors, 2 project designers, and 16 lead clearance examiners. License fees are \$150, renewable every three years. IDEM has additional fees for other activities in the program such as training course approvals.

ISDH Oversight of Residential Rental Property Owner Requirements: The bill requires the owner of a housing unit determined to be the cause of elevated blood lead levels in an individual to submit a remediation plan to the state or local health department for approval. ISDH has estimated one-half of an FTE would be necessary to handle the approval of remediation plans. The cost is estimated to be \$34,900.

ISDH Oversight of Retail Establishment Requirements: The bill also specifies requirements that must be met for a person to distribute, sell, or offer to sell an item intended for use for a child or an item that may be reasonably expected to be accessible to a child less than 7 years old. The bill specifies that the ISDH may seize an item sold, offered for sale, or distributed in violation of the provision.

(Revised) ISDH Licensure of Abortion Clinics: ISDH would need to revise the licensure rules for abortion clinics to include the required lead clearance exams in the existing rules. Rule adoption is an administrative procedure considered to be achievable within the current level of resources available to the agency.

Lead-Safe Housing Advisory Council: The travel expenses of the Council will be dependent upon the domicile of the Governor's appointees and the number of meetings held. Expenses of the Council are to be paid by the ISDH. ISDH has estimated that the Council would incur travel expenses of \$5,000. The Council is required by April 1, 2009, to submit its recommendations to the Governor and the Legislative Council. The ISDH is required to provide staff for the Council. ISDH has estimated one-half of an FTE would be necessary to staff the Council and prepare the report; the cost is projected to be \$34,900.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. In FY 2007, the Department of Health administration account reverted \$4,298,583 to the General Fund. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

The ISDH administrative appropriations were made from the General Fund and the dedicated Tobacco Master Settlement Agreement Fund for FY 2008 and from the General Fund for FY 2009.

(Revised) Study Issues for 2008 Interim: The bill also requires the Legislative Council to assign to a study committee during the 2008 interim the responsibility to examine issues concerning the testing of childcare facilities built before 1978 for lead risks and the blood lead testing of children served in regulated child care. If these issues are assigned to an existing study committee, there should be no additional expenditures required. If a new study committee is established, Legislative Council resolutions in the past have established budgets for interim study committees in the amount of \$9,500 per interim for committees with fewer than 16 members.

Explanation of State Revenues: *ISDH Civil Penalties:* The bill provides that if a laboratory fails to provide the complete information after notification, the ISDH may assess a civil penalty against the laboratory in the amount of \$2,500 for each incomplete report submitted after the notification. Civil penalties assessed under

this provision are to be deposited in the Childhood Lead Poisoning Prevention Fund. Revenue realized would depend on individual circumstances but is likely be minimal.

Explanation of Local Expenditures: The bill requires the owner of a housing unit determined to be the cause of elevated blood lead levels in an individual to submit a remediation plan to the state or local health department for approval. Local expenditures would depend on individual circumstances. [See *Explanation of State Expenditures* above.]

Explanation of Local Revenues:

State Agencies Affected: ISDH; Family and Social Services Administration; IDEM.

Local Agencies Affected: Local health departments.

Information Sources: ISDH; IDEM; Bureau of Child Care; Federal Housing and Urban Development Income Limits for FFY 2007 at: <http://www.huduser.org/datasets/il/il2007/2007summary.odt>; and *Indiana Childhood Lead Poisoning Prevention Program, Report to the Legislature for Calendar Year 2006*, ISDH, March 30, 2007.

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